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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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RICHARD GILBERT GUTIERREZ,)	No. C 07-3939 RMW (PR)
)	
Plaintiff,)	ORDER CORRECTING
)	ERRONEOUS FILING;
v.)	INSTRUCTIONS TO
)	CLERK
BORISH, et al.,)	
)	
Defendants.)	

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Plaintiff, proceeding pro se, filed the instant civil rights complaint pursuant to 42 U.S.C. § 1983 and a motion to proceed in forma pauperis on July 31, 2007. Plaintiff filed an earlier civil rights action in this court on July 26, 2007, in case no. C 07-3834 RMW (PR), which alleges the same claims as the instant complaint. It appears the instant complaint was mistakenly received and opened as a new case in this action. Because the instant case was opened erroneously, the clerk shall terminate any pending motions (docket no. 2) and close the file. The clerk shall copy the complaint in the instant case (docket no. 1) and transfer this document to case no. C 07-3834 RMW (PR). The court will review the merits of plaintiff's complaint in case no. C 07-3834 RMW (PR) in a separate written order. No filing fee is due in this closed case.

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IT IS SO ORDERED.

DATED: 8/7/2007

/s/ Ronald M. Whyte
RONALD M. WHYTE
United States District Judge

1 This is to certify that on 8/8/2007, a copy of this
2 ruling was mailed to the following:

3 Richard Gilbert Gutierrez
4 PFN# CNS 503
5 Santa Clara County Jail
6 150 West Hedding Street
7 San Jose, CA 95110
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